

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
	:	
V.	:	CRIMINAL NUMBER 17-126-1
	:	
	:	
OSCAR ALEXANDER MORENO	:	

DEFENDANT’S SENTENCING MEMORANDUM

Oscar Alexander Moreno, by his counsel undersigned, respectfully submits this Memorandum in support of his good character and to aid the Court in fashioning a fair and just sentence in his case.

I. INTRODUCTION

Oscar Moreno was initially arrested in this matter on February 7, 2017, by immigration officials who were looking for another person at a particular address in Reading, Pennsylvania. When authorities executed the warrant for that other person’s arrest, there were several men present at the location who were preparing to leave for work together that morning. Mr. Moreno was among them, and he was taken into custody for being in this country illegally, without proper documentation.

Mr. Moreno, a 35-year old citizen of El Salvador, made his initial federal court appearance in this case on March 16, 2017. He was charged with one count of illegal reentry following deportation, in violation of 18 U.S.C. § 1326(a) and (b)(1). The Federal Defender’s office was appointed to represent him on that date.

On July 25, 2017, Mr. Moreno entered a guilty plea to the charge, pursuant to an agreement with the government, before the Honorable Mark A. Kearney. He faces a statutory

maximum penalty of ten years' imprisonment and an advisory guideline range of 4-10 months. In his written plea agreement, the parties stipulated to Mr. Moreno's eligibility for this district's Early Disposition Program, also referred to as "fast track" relief. Consequently, with the Court's permission, an expedited sentencing date was scheduled for August 28, 2017.¹ Mr. Moreno has been in continuous custody since his arrest on February 7, 2017.

II. DEFENDANT'S BACKGROUND AND PARTICIPATION IN OFFENSE

Oscar Moreno was born and raised under impoverished conditions in El Salvador. He is a high school graduate who comes from a large family, and remains extremely close to his siblings and mother. His father, now deceased, operated a small dairy farm where the family lived and worked. For that reason, they were able to survive in a poor and crime-ridden country, in which violent drug gangs wreaked havoc on the streets of their small city. Those gangs reportedly continue to intimidate and terrorize that El Salvadoran community to this day.

Mr. Moreno and most of his family immigrated lawfully to this country, after receiving Temporary Protective Status through a U.S. government program that provided work visas to them. Mr. Moreno arrived in 2001, when he was age 21. The Presentence Report (PSR) reflects his long and steady history of employment, for he has always worked hard to support himself and his family throughout these intervening years. He has done assorted jobs, from construction to farm labor to waterproofing basements, and was a productive member of the Reading, Pennsylvania community for many years.

Mr. Moreno has been in a committed relationship with Ms. Reina Medina for over eight years. The couple has two sons together, ages seven and three, both of whom are United States

¹ Because of undersigned counsel's previously scheduled family vacation and the expedited nature of this proceeding, this sentencing memorandum is being submitted prior to receipt of the presentence report (PSR). Should any additional information arise in the PSR that requires a response, the defense respectfully reserves its right to file a supplemental submission prior to sentencing.

citizens. Mr. Moreno is extremely close to his children and paramour, and by all accounts has been a wonderful, loving father and a devoted, responsible family man.

In a regrettable and isolated incident, Mr. Moreno was arrested for the first time in 2006, after being attacked and engaging in a fight with another individual. This led to his arrest on assault charges and a prosecution in the Reading, Pennsylvania court system. He was ultimately convicted of misdemeanor charges only, including simple assault and possessing an instrument of crime. He received a county sentence of 11½ to 23 months, plus two years' probation. Counsel understands that after his release from imprisonment, he was compliant with all conditions of his probation.

The above misdemeanor conviction is unfortunate indeed, because of its impact on Mr. Moreno's lawful immigration status in this country. While the rest of his nuclear family attained legal resident status, immigration authorities commenced removal proceedings against Mr. Moreno because of that conviction. He was ultimately deported to his native El Salvador on January 3, 2012. At that time, he had one toddler son and his son's mother to support, and the rest of his family was residing lawfully in the United States. There was nothing and no one left in his native country, and as stated, the city he returned to was still at the mercy of violent, rival drug gangs. It is not surprising that a man with such few options available to him ultimately chose to return to the United States, albeit without papers, to reunite with his family. While this does not excuse his unlawful conduct, it helps to place it in its proper, and human, perspective.

Upon his return, it is undisputed that Mr. Moreno remained arrest-free and worked productively to support his family. The couple had their second son, and life continued in a peaceable manner. As explained above, his arrest in the instant case was not for any misconduct on his part, but was rather the result of being in the wrong place at the wrong time. Mr. Moreno

has qualified for this district's "fast track" program and has been in continuous custody since his arrest on February 7, 2017, over six months.

III. CONCLUSION

Oscar Moreno accepts full responsibility for his conduct in this case, and he is deeply remorseful for it. He is a thoughtful, intelligent man who has a gentle and respectful demeanor. It goes without saying that he is deeply saddened at his predicament, but he understands that he cannot return to this country in the future without permission from the government. He knows that he faces removal proceedings at the close of the instant case, and he will cooperate fully with that process. Mr. Moreno vows to respect the laws of this country going forward, and plans to lawfully relocate his children and their mother to another country, to begin life anew.

Mr. Moreno faces an advisory guideline range of 4-10 months, and has been in continuous custody for well over six months to date. The defense respectfully recommends a sentence of time served with no supervision to follow. *United States v. Francisco Azcona-Polanco*, No. 16-3478 (3d Cir., July 27, 2017) (there is a presumption against imposing supervised release for deportable aliens). The defense submits that a time-served sentence is a fair and reasonable disposition, one that is sufficient but not greater than necessary to satisfy all of the purposes of sentencing set forth in 18 U.S.C. § 3553(a).

Respectfully submitted,

/s/ Felicia Sarner
FELICIA SARNER
Assistant Federal Defender

CERTIFICATE OF SERVICE

I, Felicia Sarner, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I served a copy of the Defendant's Sentencing Memorandum, by electronic notification and/or hand delivery to his office, upon Joel D. Goldstein, Assistant United States Attorney, office located at 615 Chestnut Street, Suite 1250, Philadelphia, Pennsylvania, 19106.

/s/ Felicia Sarner
FELICIA SARNER
Assistant Federal Defender

DATE: August 7, 2017